



# City of Grand Island

Tuesday, June 14, 2011

Council Session

## Item E3

**Public Hearing on Request from Paloma Huerta Nevarez dba El Diamante, 1600 South Eddy Street for a Class “T” Liquor License**

Staff Contact: RaNae Edwards

# Council Agenda Memo

**From:** RaNae Edwards, City Clerk

**Meeting:** June 14, 2011

**Subject:** Public Hearing on Request from Paloma Huerta Nevarez dba El Diamante, 1600 South Eddy Street for a Class "I" Liquor License

**Item #'s:** E-3 & I-3

**Presenter(s):** RaNae Edwards, City Clerk

## Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:

- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
- (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
- (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## Discussion

Paloma Huerta Nevarez dba El Diamante, 1600 South Eddy Street has submitted an application for a Class "I" Liquor License. A Class "I" Liquor License allows for the sale of alcohol on sale only inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Due to concerns from the Grand Island Police Department of false information on the application it is recommended this application be denied. (See attached Police Department report.)

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council **deny** this application.

### **Sample Motion**

Move to **deny** the application for Paloma Huerta Nevarez dba El Diamante, 1600 South Eddy Street for a Class "1" Liquor License based on false information on the application.

06/08/11  
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Grand Island Police Department

LAW INCIDENT TABLE

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City : Grand Island  
 Occurred after : 15:07:23 05/23/2011  
 Occurred before : 15:07:23 05/23/2011  
 When reported : 15:07:23 05/23/2011  
 Date disposition declared : 05/23/2011  
 Incident number : L11053068  
 Primary incident number :  
 Incident nature : Liquor Lic Inv Liquor License

Investigation  
 Incident address : 1600 Eddy St S  
 State abbreviation : NE  
 ZIP Code : 68801  
 Contact or caller :  
 Complainant name number :  
 Area location code : PCID Police - CID  
 Received by : Vitera D  
 How received : T Telephone  
 Agency code : GIPD Grand Island Police Department  
 Responsible officer : Vitera D  
 Offense as Taken :  
 Offense as Observed :  
 Disposition : ACT Active  
 Misc. number : RaNae  
 Geobase address ID : 18419  
 Long-term call ID :  
 Clearance Code : CL Case Closed  
 Judicial Status : NCI Non-criminal Incident

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	56438	06/06/11	Huerta-Perez, Baltazar	Paloma's
Husband				
NM	59404	06/06/11	Huerta-Nevarez, Paloma	Liquor License
NM	100491	06/06/11	El Diamante Night Club,	Business
Involved				

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:



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Grand Island Police Department

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Grand Island Police Department  
Supplemental Report

Date, Time: Mon Jun 06 15:37:05 CDT 2011  
Reporting Officer: Vitera  
Unit- CID

El Diamante is an Individual Application. The only two names on the application are Paloma Huerta Nevarez and her husband Baltazar Huerta. The Huerta's state they have lived in Grand Island since 2002 and in Nebraska since at least 2000.

I can confirm that the GIPD had contact with Baltazar in 2002. Paloma wants to run the El Diamante. She says that the El Diamante will be used as a banquet hall for wedding receptions, food sales, and occasional live entertainment.

According to ICE, Baltazar is a Lawful Permanent Resident Alien, and Paloma is a Naturalized U.S. Citizen. Baltazar signed a Spousal Affidavit of Non-Participation.

I checked Paloma and Baltazar through Spillman and NCJIS. Paloma has several entries in Spillman but doesn't necessarily show anything that would indicate any convictions. Baltazar has one entry which shows that he was involved in a motor vehicle accident. Paloma only has an operator's license entry in NCJIS with no convictions. Baltazar shows three convictions for speeding. One of the convictions occurred the day after the NLCC received this application. No convictions of any kind were disclosed on the application.

On 6/6/11, I spoke to Paloma at her home. I asked her if she and her husband are currently working. Paloma advised that Baltazar works for Mud Jockies, and she is unemployed. She said that she probably has not worked for more than three to six months at one time over the past eighteen years. I asked her about funding her business. Paloma marked on her application that she is not borrowing any money from any source (including family) to establish or operate the business. Paloma said that she has to give Rafael Orozco \$12,000 up front if she gets a liquor license. Seven thousand is for two months rent, and \$5,000 is for a damage deposit. Paloma went on to say that her brother-in-law-(Isidro Huerta Perez) lives with her and is lending her \$6,000. She also said there is no formal agreement between them on repaying the money. In fact, she said if she can't repay the money, Isidro will understand and not demand repayment.

Besides the incorrect answer on her application about borrowing money, I noticed that Paloma had checked on the application that none of the furniture, fixtures, and equipment for the business will be owned by someone else. However, towards the end of the application there is "Exhibit A" that lists two pool tables, eighty circular tables, and two hundred fifty chairs. Paloma confirmed this is Rafael's property. Paloma couldn't explain why this answer was incorrect on the application especially since an attorney helped her fill it out. The only thing she could think of was that she didn't have an interpreter during one of the

meetings with her attorney when part of the application was filled out. I don't speak Spanish and was able to understand Paloma. Although, I had to ask for clarification a few times.

When asked how Paloma knows Rafael Orozco, she said she has known him for about two years. She used to go to El Diamante on Friday nights for karaoke. Rafael originally wanted to sell the business to her but after about seven months, he finally agreed to lease the building to her. Paloma would like to have a Mexican buffet that would be open from 11-2 and again from 5-7 on Friday, 06/08/11

Grand Island Police Department

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15:06

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Saturday, and Sunday. She would like to come up with a couple more cooks who can cook traditional food from Guatemala and El Salvador. If she doesn't get the buffet running, she would at least like to have tacos on Friday and Saturday until 0100 hours. Paloma was reminded that having customers in her bar after 0115 is one of the issues that we had with Rafael Orozco. She understood and said everyone would be cleared out by then.

Paloma's application also says that she would like to occasionally have live entertainment. When asked about that, Paloma advised she would like to have a band maybe twice a month. Otherwise, Paloma said she will have music whether it's from a DJ or just having a CD playing. She will also have a couple of security guards when they have live music or on weekends if the club is busy. Paloma made it clear that she will be open as much as possible because she has to pay the bills.

In summary, Baltazar failed to disclose his traffic convictions, Paloma intentionally didn't disclose on the application that she is borrowing money from her brother-in-law, and Paloma answered incorrectly on the application about someone else owning some of the property in the building she is leasing.



The information stated in the preceding paragraph are examples of why this application is false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01) which states:

"No applicant for a liquor license, or partner, principal, agent or employee of any applicant for a liquor license shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director, or employees. Any violation of this provision may result in denial of application for a liquor license or, in the event that a license has already been issued, suspension, cancellation or revocation of such license."

While Paloma has some limited experience working as a bartender in Texas and may have reasons for the way the application was filled out, the Grand Island Police Department recommends that the council not give local approval to this application at this time due to the application being false.

